

**COMBINED DECLARATION AND POWER OF ATTORNEY**  
(ORIGINAL, DESIGN, NATIONAL STAGE OF PCT, SUPPLEMENTAL, DIVISIONAL,  
CONTINUATION OR CIP)

As a below named inventor, I hereby declare that:

**TYPE OF DECLARATION**

This declaration is of the following type: (check one applicable item below)

- ☒ original  
☐ design  
☐ supplemental.

**NOTE:** If the declaration is for an International Application being filed as a divisional, continuation or continuation-in-part application do NOT check next item; check appropriate one of last three items.

- ☐ national stage of PCT

**NOTE:** If one of the following 3 items apply then complete and also attach **ADDED PAGES FOR DIVISIONAL, CONTINUATION OR CIP.**

- ☐ divisional  
☐ continuation  
☐ continuation-in-part (CIP)

**WARNING:**

**INVENTORSHIP IDENTIFICATION**

If the inventors are each not the inventors of all the claims an explanation of the facts, including the ownership of all the claims at the time the last claimed invention was made, should be submitted.

My residence, post office address and citizenship are as stated below next to my name; I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

**TITLE OF INVENTION**

**IMPLANTABLE DEVICE & METHOD FOR ADJUSTABLY RESTRICTING  
A BODY LUMEN**

**SPECIFICATION IDENTIFICATION**

the specification of which: (complete (a), (b) or (c))

- (a) ☒ is attached hereto.  
 (b) ☐ was filed on \_\_\_\_\_ as ☐ Serial No. \_\_\_\_\_  
 or ☐ Express Mail No., as Serial No. not yet known \_\_\_\_\_ and was amended on \_\_\_\_\_ (if applicable).

**NOTE:** Amendments filed after the original papers are deposited with the PTO which contain new matter are not accorded a filing date by being referred to in the declaration. Accordingly, the amendments involved are those filed with the application papers or, in the case of a supplemental declaration, are those amendments claiming matter not encompassed in the original statement of invention or claims. See 37 CFR 1.67.

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(c) ☐ was described and claimed in PCT International Application No. \_\_\_\_\_ filed on \_\_\_\_\_ and amended under PCT Article 19 on \_\_\_\_\_ (if any).

**ACKNOWLEDGEMENT OF REVIEW OF PAPERS AND DUTY OF CANDOR**

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations. § 1.56(a).

☒ In compliance with this duty there is attached in Information Disclosure Statement. 37 CFR 1.97.

**PRIORITY CLAIM**

I hereby claim foreign priority benefits under Title 35, United States Code, § 119 of any foreign application(s) for patent or inventor's certificate or of an PCT international application(s) designating at least one country other than the United States of America listed below and have also identified below any foreign application(s) for patent or inventor's certificate or any PCT international application(s) designating at least one country other than the United States of America filed by me on the same subject matter having a filing date before that of the application(s) of which priority is claimed. (complete (d) or (e))

- (d) ☒ no such applications have been filed.  
(e) ☐ such applications have been filed as follows:

**NOTE:** Where item (c) is entered above and the International Application which designated the U.S. claimed priority check item (e), enter the details below and make the priority claim.

**EARLIEST FOREIGN APPLICATION(S), IF ANY FILED WITHIN 12 MONTHS (6 MONTHS FOR DESIGN) PRIOR TO THIS U.S. APPLICATION**

COUNTRY	APPLICATION NUMBER	DATE OF FILING (day, month, year)	PRIORITY CLAIMED UNDER 37 USC 119
			<input type="checkbox"/> YES NO <input checked="" type="checkbox"/>
			<input type="checkbox"/> YES NO <input type="checkbox"/>
			<input type="checkbox"/> YES NO <input type="checkbox"/>
			<input type="checkbox"/> YES NO <input type="checkbox"/>
			<input type="checkbox"/> YES NO <input type="checkbox"/>

**ALL FOREIGN APPLICATION(S), IF ANY FILED MORE THAN 12 MONTHS (6 MONTHS FOR DESIGN) PRIOR TO THIS U.S. APPLICATION**

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# POWER OF ATTORNEY

As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith. (List name and registration number).

Martin Smolowitz, Esq.  
Reg. No. 20,669

(check the following item, if applicable)

- ( ) Attached as part of this declaration and power of attorney is the authorization of the above-named attorney(s) to accept and follow instructions from my representative(s).

<b>SEND CORRESPONDENCE TO:</b>  Martin Smolowitz, Esq. LAW OFFICES OF MARTIN SMOLOWITZ Two Pennsylvania Plaza Suite 1500 New York, NY 10121	<b>DIRECT TELEPHONE CALLS TO:</b> (Name and telephone number)  212-244-3100
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## DECLARATION

I hereby declare that all statements made hereon of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

## SIGNATURE(S)

SIGN DATE ✓ Full name of sole or first inventor JOHN H. BURTON  
 ✓ Inventor's signature *John H. Burton*  
 ✓ Date 6/10/97 Country of Citizenship U.S.A.  
 Residence 15460 Wing Lake Drive  
Minnetonka, MN 55345  
 Post Office Address As above

SIGN DATE ✓ Full name of second joint inventor TIMOTHY C. COOK  
 ✓ Inventor's signature *Timothy Cook*  
 ✓ Date 6/10/97 Country of Citizenship U.S.A.  
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Minnetonka, MN 55305

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